

REMARKS

The last Office Action of May 6, 2005 has been carefully considered. Reconsideration of the instant application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-15 are pending in the application. Claim 1 has been amended. No claims have been canceled or added. No amendment to the specification has been made. No fee is due.

It is noted that claims 1-15 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-15 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 3,334,723 to Reed et al.

REJECTION UNDER 35 U.S.C. §112, SECOND PARAGRAPH

Applicant has amended claim 1 by setting forth the presence of a control mechanism for selectively raising the modules into the transport paths, as suggested by the Examiner.

Withdrawal of the rejection of the claims 1-15 under 35 U.S.C. §112, second paragraph is thus respectfully requested.

REJECTION UNDER 35 U.S.C. §102(b)

The rejection under 35 U.S.C. 102(b) is respectfully traversed.

Claim 1 on file is directed to a transport system having a propulsion and guide assembly with at least two modules that can be raised between a lower position in which the modules are below the plane of the support assembly and an elevated position in which the modules are above the plane of the support assembly, whereby only the one module is lifted into the transport path which is intended for transport of the containers. In other words, when the containers should be advanced along one transport path, only the module associated to that transport path is raised, while the other module still remains in the lower position. When the containers should be advanced along the other transport path, only the module associated to that other transport path is raised, while the one module now remains in the lower position. Thus, both modules are constructed for elevation into the associated transport paths.

The Reed et al. reference is directed to a transport conveyor having two transport paths. When articles are advanced in straight direction, the articles are transported by respective chain conveyors. In the event, the articles should be diverted along the angular conveyor, tapered rollers are provided that can be raised to a position above the chain conveyor. Thus, Reed et al. fail to disclose the provision of modules which are each individually and selectively movable between upper and lower positions.

For the reasons set forth above, it is applicant's contention that Reed et al neither teaches nor suggests the features of the present invention, as recited in claim 1.

As for the rejection of the retained dependent claims, these claims depend

on claim 1, share its presumably allowable features, and therefore it is respectfully submitted that these claims should also be allowed.

It should, however, be noted that these dependent claims contain individual patentable features per se. In this connection, applicant wishes to refer e.g. to claim 2 which sets forth the provision of an alignment and propulsion mechanism is constructed with a catch member for engagement in a recess of the container for transport. Likewise, claims 12 and 13 set forth a construction of the modules of the propulsion and guide assembly for engagement the in a recess of the container for transport. The articles (stack of newspapers) for transport in the Reed et al. conveyor unit sit flatly on the conveyors.

Withdrawal of the rejection of claims 1-15 under 35 U.S.C. §102(b) and allowance thereof are thus respectfully requested.

CITED REFERENCES

Applicant has also carefully scrutinized the further cited prior art and finds it without any relevance to the newly submitted claims. It is thus felt that no specific discussion thereof is necessary.

CONCLUSION

Applicant believes that when reconsidering the claims in the light of the above comments, the Examiner will agree that the invention is in no way properly

met or anticipated or even suggested by any of the references however they are considered.

In view of the above presented remarks and amendments, it is respectfully submitted that all claims on file should be considered patentably differentiated over the art and should be allowed.

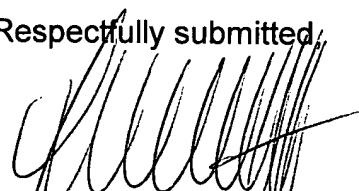
Applicant further submits certified copies of the priority documents under 35 U.S.C. §119(a)-(d).

Reconsideration and allowance of the present application are respectfully requested.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

Respectfully submitted,

By:


Henry M. Feiereisen
Agent For Applicant
Reg. No: 31,084

Date: July 29, 2005
350 Fifth Avenue, Suite 4714
New York, N.Y. 10118
(212)244-5500
HMF:ub